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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/813,103	03/19/2001	Martin Reed Bodley	630.320US01	8082

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EXAMINER

CHIANG, JACK

ART UNIT	PAPER NUMBER
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2642

DATE MAILED: 03/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/813,103

Applicant(s)

BODLEY ET AL.

Examiner

Jack Chiang

Art Unit

2642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12, 18-20, 25 and 26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 18-20, 25-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

CLAIMS

Art Rejection

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-2, 4, 7, 12, 18-20, 25-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Mertturk (DE 29808425 U1) in view of Pralus et al. (US 6055312).

Regarding claim 1, Mertturk shows a headset comprising:

A housing (1) having a first surface having at least one transducer (2);

A microphone arm (5-7) suspended from the housing (1);

The microphone (5-7) having longitudinal dimension;

The housing (1) having an outer peripheral edge which defines a boundary of the housing (1);

An earhook (area of 9) for securing the unit to the head of a user (fig. 1);

The earhook (area of 9) extending from the housing (1);

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The arm (5-7) is pivotally connected to the housing (1) by a hinge link (7') having a pivotal axis generally orthorgonal to the longitudinal dimension;

The arm (5-7) can be moved between a first folded position (fig. 2) in which it lies up against the housing (1), and a second open position (fig. 1) in which it extends away from the housing (1);

The arm (5-7) is of a length such that, when in the folded position (fig. 2) does not extend generally beyond the outer periphery of the housing (1, see fig. 2), so that when the arm (5-7) is in the folded position (fig. 2), a compact unit is formed with the microphone (5-7) being substantially within the peripheral boundary (fig. 2).

Mertturk differs from the claimed invention in that it does not show a detail design of the hinge link (7'), in which the pivotal axis is not generally parallel with the first surface of the housing (1).

However, Pralus teaches providing a microphone arm having unlimited pivotal axes (ball joint 38, col. 6, line 17; col. 5, lines 66-67, col. 6, lines 1-2) which can be generally parallel with the first surface of the housing (10).

Hence, the concept of providing a hinge link is well taught by Mertturk, it would have been obvious for one of ordinary skill in the art to adapt Pralus's hinge link in Mertturk, such that the modification allows the microphone arm to be rotated in any direction about the pivotal point, this also allows the user to position the microphone in any position as desired (col. 5, lines 66-67, col. 6, lines 1-2 in Pralus).

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Regarding claims 2, 4 and 7, the combination of Mertturk and Pralus shows:

The face of the housing (i.e. 1 in Mertturk, 10 in Pralus) defines one plane;

The microphone arm (70, 38) which is capable of rotating on the hinge link through a plane which is orthogonal (ball joint 38, col. 6, line 17; col. 5, lines 66-67, col. 6, lines 1-2 in Pralus) to the said one plane as it is moved from a closed to an open position.

A contact arrangement which is activated by the movement of the microphone arm (col. 6, lines 12-15 in Pralus);

an antenna (8 in Mertturk).

Regarding claim 12, Mertturk shows a headset comprising:

A housing (1) having a generally planar side;

A microphone arm (5-7) pivotally connected to the housing (1) by a hinge link (7');

The microphone arm (5-7) having longitudinal dimension;

The arm (5-7) pivoting on the housing (1) by on an axis generally orthorgonal to the longitudinal dimension;

The arm (5-7) can be moved between a first position (fig. 2) in which it lies up against the planar side of housing (1 in fig. 2), a second position (fig. 1) in which it extends perpendicularly away from the housing (fig. 1).

Mertturk first differs from the claimed invention in that it does not show a detail design of the hinge link (7'), in which the pivotal axis is not generally parallel with the first surface of the housing (1).

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However, Pralus teaches providing a microphone arm having unlimited pivotal axes (ball joint 38, col. 6, line 17; col. 5, lines 66-67, col. 6, lines 1-2) which can be generally parallel with the first surface of the housing (10).

Hence, the concept of providing a hinge link is well taught by Mertturk, it would have been obvious for one of ordinary skill in the art to adapt Pralus's hinge link in Mertturk, such that the modification allows the microphone arm to be rotated in any direction about the pivotal point, this also allows the user to position the microphone in any position as desired (col. 5, lines 66-67, col. 6, lines 1-2 in Pralus).

Mertturk further differs from the claimed invention in that it does not show a communications link circuit.

However, Pralus shows a communications link circuit (see 24 in Pralus) for connecting the headset and a remote device, the circuit for detecting a ringing state (in 10) and by moving the arm (70) to the second position causing the device to go to an off-hook state (col. 6, lines 12-15).

Hence, it is well known that many headsets have built-in circuitry for communication.

This is taught by Pralus, it would have been obvious for one of ordinary skill in the art to modify Mertturk with the circuitry as taught by Pralus, such that communications can be controlled from the headset, such as rotating the microphone arm to cause the communication to be ON or OFF (col. 6, lines 12-15 in Pralus).

Regarding claim 18, Mertturk shows a headset comprising:

A housing (1);

A microphone arm (5-7) pivotally connected to the housing (1) by a hinge link (7');

The arm (5-7) can be moved between a first position (fig. 2) in which it lies up against the housing (1), a second position (fig. 2) in which it extends away from the housing (1);

The hinge link (7') including at least one recess (for hinge 7').

Mertturk first differs from the claimed invention in that it does not show a detail design of the hinge link (7'), such as a slidable element and a bias element.

However, Pralus teaches providing a hinge link (38) including at least one recess (recess for the ball, or upper part of 30, note: 38 and 30 use similar rotational mechanism), the arm (70) including at least one slidable element (ball, or low part of 30), a bias element (34) providing bias force against the element to maintain the element within the recess (see fig. 3).

Hence, the concept of providing a hinge link is well taught by Mertturk, it would have been obvious for one of ordinary skill in the art to adapt Pralus's hinge link in Mertturk, such that the modification allows the microphone arm to be rotated in any direction about the pivotal point, this also allows the user to position the microphone in any position as desired (col. 5, lines 66-67, col. 6, lines 1-2 in Pralus).

Mertturk further differs from the claimed invention in that it does not show that the linkage from the element to a sensor responsive to element movement to detect the position of the arm.

However, Pralus teaches providing that the linkage from the element to a sensor responsive to element movement to detect the position of the arm (70, col. 6, lines 12-15).

Hence, it is well known that many headsets have built-in circuitry for communication.

This is taught by Pralus, it would have been obvious for one of ordinary skill in the art to modify Mertturk with the circuitry as taught by Pralus, such that communications can be controlled from the headset, such as rotating the microphone arm to cause the communication to be ON or OFF (col. 6, lines 12-15 in Pralus).

Regarding claims 19-20, the combination of Mertturk and Pralus shows:

The recess or groove or stem having sloping sidewalls (for the ball, or upper 30 in Pralus);

The element or land (ball, or lower 30);

The stem and element are keyed (31) to prevent rotation while still permitting axial movement of the element in response to the bias (34).

Regarding claim 25, Mertturk shows a headset comprising:

A housing (1) having a first surface having at least one transducer (2);

A microphone arm (5-7) suspended from the housing (1);

The microphone (5-7) having longitudinal dimension;

The housing (1) having an outer peripheral edge which defines a boundary of the housing (1);

An earhook (area of 9) for securing the unit to the head of a user (fig. 1);

The earhook (area of 9) extending from the housing (1);

The arm (5-7) is connected to the housing (1) by a hinge link (7');

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The arm (5-7) can be moved between a first folded position (fig. 2) in which it lies up against the housing (1), and a second open position (fig. 1) in which it extends away from the housing (1);

The arm (5-7) is of a length which in the main is less than or of the same order as the greatest extend of the housing (1).

Mertturk differs from the claimed invention in that it does not show a detail design of the hinge link (7'), in which the pivotal axis is not generally parallel with the first surface of the housing (1).

However, Pralus teaches providing a microphone arm having unlimited pivotal axes (ball joint 38, col. 6, line 17; col. 5, lines 66-67, col. 6, lines 1-2) which can be generally parallel with the first surface of the housing (10).

Hence, the concept of providing a hinge link is well taught by Mertturk, it would have been obvious for one of ordinary skill in the art to adapt Pralus's hinge link in Mertturk, such that the modification allows the microphone arm to be rotated in any direction about the pivotal point, this also allows the user to position the microphone in any position as desired (col. 5, lines 66-67, col. 6, lines 1-2 in Pralus).

Regarding claim 26, Mertturk shows a headset comprising:

A housing (1) having a first surface having at least one transducer (2);

A microphone arm (5-7) suspended from the housing (1);

The microphone (5-7) having longitudinal dimension;

The housing (1) having an outer peripheral edge which defines a boundary of the

housing (1);

An earhook (area of 9) for securing the unit to the head of a user (fig. 1);

The earhook (area of 9) extending from the housing (1);

The arm (5-7) is connected to the housing (1) by a hinge link (7');

The arm (5-7) can be moved between a first folded position (fig. 2) in which it lies up against the housing (1), and a second open position (fig. 1) in which it extends away from the housing (1);

The arm (5-7) is of a length such that, when in the folded position (fig. 2) does not extend substantially beyond the outer periphery of the housing (1, see fig. 2), so that when the arm (5-7) is in the folded position (fig. 2), a compact unit is formed.

Mertturk differs from the claimed invention in that it does not show a detail design of the hinge link (7'), in which the pivotal axis is not generally parallel with the first surface of the housing (1).

However, Pralus teaches providing a microphone arm having unlimited pivotal axes (ball joint 38, col. 6, line 17; col. 5, lines 66-67, col. 6, lines 1-2) which can be generally parallel with the first surface of the housing (10).

Hence, the concept of providing a hinge link is well taught by Mertturk, it would have been obvious for one of ordinary skill in the art to adapt Pralus's hinge link in Mertturk, such that the modification allows the microphone arm to be rotated in any direction about the pivotal point, this also allows the user to position the microphone in any position as desired (col. 5, lines 66-67, col. 6, lines 1-2 in Pralus).

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-7, 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Mertturk (DE 29808425 U1) in view of Beutler et al. (US 4897873).

Regarding claim 1, Mertturk shows a headset comprising:

A housing (1) having a first surface having at least one transducer (2);

A microphone arm (5-7) suspended from the housing (1);

The microphone (5-7) having longitudinal dimension;

The housing (1) having an outer peripheral edge which defines a boundary of the housing (1);

An earhook (area of 9) for securing the unit to the head of a user (fig. 1);

The earhook (area of 9) extending from the housing (1);

The arm (5-7) is pivotally connected to the housing (1) by a hinge link (7') having a pivotal axis generally orthorgonal to the longitudinal dimension;

The arm (5-7) can be moved between a first folded position (fig. 2) in which it lies up against the housing (1), and a second open position (fig. 1) in which it extends away from the housing (1);

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The arm (5-7) is of a length such that, when in the folded position (fig. 2) does not extend generally beyond the outer periphery of the housing (1, see fig. 2), so that when the arm (5-7) is in the folded position (fig. 2), a compact unit is formed with the microphone (5-7) being substantially within the peripheral boundary (fig. 2).

Mertturk differs from the claimed invention in that it does not show a detail design of the hinge link (7'), in which the pivotal axis is not generally parallel with the first surface of the housing (1).

However, Beutler also teaches providing a hinge link (fig. 3) which rotates orthogonally with respect to the face of the device.

Hence, the concept of providing a hinge is well taught by Mertturk, although there is no detail about the hinge, it would have been obvious for one of ordinary skill in the art to adapt Beutler's hinge in Mertturk, such that the microphone arm can be rotated orthogonally with respect to the device, as long as the basic concept of providing the pivotal microphone arm is substantially unchanged.

Regarding claim 26, Mertturk shows a headset comprising:

A housing (1) having a first surface having at least one transducer (2);

A microphone arm (5-7) suspended from the housing (1);

The microphone (5-7) having longitudinal dimension;

The housing (1) having an outer peripheral edge which defines a boundary of the housing (1);

An earhook (area of 9) for securing the unit to the head of a user (fig. 1);

The earhook (area of 9) extending from the housing (1);

The arm (5-7) is connected to the housing (1) by a hinge link (7');

The arm (5-7) can be moved between a first folded position (fig. 2) in which it lies up against the housing (1), and a second open position (fig. 1) in which it extends away from the housing (1);

The arm (5-7) is of a length such that, when in the folded position (fig. 2) does not extend substantially beyond the outer periphery of the housing (1, see fig. 2), so that when the arm (5-7) is in the folded position (fig. 2), a compact unit is formed.

Mertturk differs from the claimed invention in that it does not show a detail design of the hinge link (7'), in which the pivotal axis is not generally parallel with the first surface of the housing (1).

However, Beutler also teaches providing a hinge link (fig. 3) which rotates orthogonally with respect to the face of the device.

Hence, the concept of providing a hinge is well taught by Mertturk, although there is no detail about the hinge, it would have been obvious for one of ordinary skill in the art to adapt Beutler's hinge in Mertturk, such that the microphone arm can be rotated orthogonally with respect to the device, as long as the basic concept of providing the pivotal microphone arm is substantially unchanged.

Regarding claims 2-7, the combination of Mertturk and Beutler shows:

The face of the housing (i.e. 1 in Mertturk, 110 in Beutler) defines one plane;

The microphone arm (104 in Beutler) which is capable of rotating on the hinge link through a plane which is orthogonal to the said one plane (110 in Beutler) as it is moved from a closed to an open position.

The microphone arm (5-7 in Mertturk; 304 in Beutler);

Hinge pins (310, 316 in Beutler);

The hinge parts (306, 318, 112, 114 in Beutler);

A contact (308, 302 in Beutler) which is activated by the movement of the microphone arm;

A securing device (314 in Beutler);

Means of a release arrangement (312 in Beutler);

The microphone (370);

The electrical connection thru the hinge link (see wires connecting to 302, 370);
an antenna (antenna in Beutler; 8 in Mertturk).

5. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Mertturk and Beutler in view of Ito et al. (US 6052567).

Regarding claims 8-9, Mertturk shows the antenna (8).

Mertturk differs from the claimed invention in that it does not have details about the antenna, such as a coating in the housing, or thru the hinge link.

However, Ito teaches providing an antenna (i.e. 33) which is thru the hinge link or pin on the microphone arm (23).

Hence, the concept of providing an antenna is well taught by Mertturk, it would have been obvious for one of ordinary skill in the art to provide the antenna on the housing as it is shown by Mertturk, or to provide the antenna with the microphone arm as it is taught by Ito. This simply can be considered as a variation of each other, because the basic concept of providing the antenna is substantially unchanged.

6. Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Mertturk and Beutler in view of Burris et al. (US 5708724).

Regarding claims 10-11, Mertturk shows the ear hook (area of 9) and the housing (1). Mertturk differs from the claimed invention in that it does not show a recess for a removable ear hook, and the left and right ear mounting.

However, Burris teaches providing a housing having a recess (32) for a removable ear hook (12), and the left and right ear mounting (figs. 1, 4).

Hence, it would have been obvious for one of ordinary skill in the art to modify Mertturk with the ear hook as taught by Burris, such that the headset can be mounted on the left or right ear of the user (col. 2, lines 38-42 in Burris).

7. Claims 13-17 and 21-24 had been canceled by the applicant.

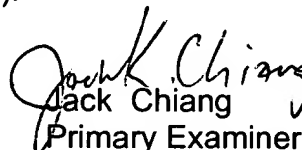
ARGUMENT

8. In response to the remarks (page 7), applicant mainly argues that Pralus is not ear-wearable. This issue is now addressed in the rejections above, see comments above.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack Chiang whose telephone number is 703-305-4728. The examiner can normally be reached on Mon.-Fri. from 8:00 to 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar, can be reached on 703-305-4731. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jack Chiang
Primary Examiner
Art Unit 2642